

**Findlay Industries, Inc. and International Union,
United Automobile, Aerospace and Agricultural
Implement Workers of America, UAW,
Petitioner. Case 9-RC-16762**

May 22, 1997

**DECISION AND CERTIFICATION OF
REPRESENTATIVE**

BY CHAIRMAN GOULD AND MEMBERS FOX
AND HIGGINS

The National Labor Relations Board has considered objections in the election held on August 20, 1996, pursuant to a Stipulated Election Agreement, and the hearing officer's report recommending disposition of them. The tally of ballots shows 161 for and 149 against the Petitioner with 2 challenged ballots, a number insufficient to affect the results of the election.

The Board has reviewed the record in light of the exceptions and briefs and has adopted the hearing officer's findings¹ and recommendations.²

¹ The Employer has excepted to some of the hearing officer's credibility findings. The Board's established policy is not to overrule a hearing officer's credibility resolutions unless the clear preponderance of all the relevant evidence convinces us that they are incorrect. *Stretch Tex Co.*, 118 NLRB 1359, 1361 (1957). We find no basis for reversing the findings.

² We affirm the hearing officer's denial of the Employer's motion to continue the hearing to allow a document expert to examine and provide testimony with respect to signatures which appeared on petitions stating that the signers were employees who were going to vote for the Petitioner, and which the Petitioner cut and pasted to a handbill distributed by employees. At the hearing, the Employer presented 19 employee witnesses whose signatures appeared on the handbill, of whom 17 testified that they had signed only blank sheets of paper or meeting attendance forms, and two testified that the signatures were not theirs. With regard to the 17 employees, the hearing officer found, based on credibility resolutions, that the employees did in fact sign petitions which, at the time they were signed, contained printed language stating that the signers intended to vote for the Petitioner. With regard to the two employees who denied that the signatures were theirs, the hearing officer found that employee White's signature was not genuine but that employee Miller's signa-

CERTIFICATION OF REPRESENTATIVE

IT IS CERTIFIED that a majority of the valid ballots have been cast for the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, UAW and that it is the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All production and maintenance employees and group leaders employed by the Employer at its 217 South Alex Road, West Carrollton, Ohio facility, but excluding all office clerical employees and all professional employees, guards and supervisors as defined in the Act.

ture was genuine. His finding was based in part on a comparison of their signatures on the petitions to those on their drivers' licenses and in part on credibility resolutions based on demeanor.

Inasmuch as the hearing officer's findings with respect to the signatures of 17 of the employees were based on their own admissions that the signatures appeared to be their own, as well as the credited testimony of witnesses who watched the employees sign the petitions, we find no error in his denial of the Employer's motion for a continuance. Even assuming *arguendo* that a document expert could show that neither Miller's nor White's signature was genuine, the Employer does not argue, and we do not find, that the Petitioner's use of those 2 signatures on a handbill along with 190 other valid signatures meets the standard cited by the Employer that the "misrepresentation is so pervasive and the deception so artful that employees will be unable to separate truth from untruth and [that] their right to a free and fair choice will be affected." *Van Dorn Plastic Machinery Co. v. NLRB*, 736 F.2d 343, 348 (6th Cir. 1984), cert. denied 469 U.S. 1208 (1985).

We have previously observed that employees who have signed union authorization cards or prounion petitions may be understandably reluctant, under examination by an employer's counsel, to admit to that activity, and we have therefore expressed some skepticism as to the reliability of testimony damaging to the union elicited under such circumstances. See *Crystal Art Gallery*, 323 NLRB 258 (1997). See also *NLRB v. Gissel Packing Co.*, 395 U.S. 575, 607-608 (1969). The justification for such skepticism is underscored in this case, where the credited evidence establishes that 18 of the 19 employees who testified for the Employer that they did *not* sign the petition actually *did* sign it.

In the absence of exceptions, we adopt pro forma, the hearing officer's recommendation to overrule Objections 4, 6, 7, and 8.